IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Praveen Chand Jain. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 7193/2005

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Date of Order: April 18, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr.R.N. Upadhyaya, for the petitioner.
Mr.B.L. Tiwari, Deputy Government Advocate.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondents to reimburse him the full and actual expenses incurred by him towards his Open Heart Surgery done in Escorts Heart Institute & Research Centre, New Delhi and other expenses incurred in S.M.S. Hospital, Jaipur as also in M.G. Hospital, Bhilwara along with interest @ 12% per annum.

The facts of the case, in a nut shell, are that the petitioner retired as Male Nurse Grade-Ifrom State Government service on 31-12-1997 and he is a member of Pensioners Medical Scheme. On 24-8-2002, the petitioner was admitted to M.G. Hospital, Bhilwara and on being found that he was suffering

from Anteroseptal Wall Myocardial Infarcation. On 28-8-2002, he was referred to S.M.S. Hospital, Jaipur, where Angiography was done on 6-9-2002 and it was detected that the petitioner was suffering from Triple Vessel Disease and he underwent Bye-pass Open Heart Surgery at the Escorts Heart Institute & Research Centre, New Delhi on 14-4-2002 and discharged from there on 21-9-2002. The petitioner stated that he incurred a sum of Rs.4 lac towards his medical treatment and also incurred other expenses at Bhilwara, Jaipur and New Delhi. He filed his claim for medical reimbursement to the tune of Rs.2,85,457/- but the respondent authority issued a cheque No.595913 dated 28-12-2002 for a sum of Rs.50,000/- only. Hence this writ petition.

A reply to the writ petition has been filed by the respondents stating therein the petitioner himself expressed his desire to get his treatment at Escorts Heart Institute & Research Centre, New Delhi, whereupon his case was referred vide Annx.R/1 with the stipulation that his financial entitlement will be that of S.M.S. Hospital, Jaipur (subject to prior permission of finance department) i.e. Rs.50,000/- and as such, now the petitioner cannot claim any amount over and above Rs.50,000/- . It has further been stated that the treatment undergone by the petitioner was well available at SMS Hospital, Jaipur and the expenses to be incurred in his treatment and the petitioner was referred with the specific condition that he will be

entitled to medical reimbursement of Rs.50,000/- only. It was further stated in the reply that as per Clause 4E(c) of the Rajasthan State Pensioners' Reimbursement of Medical Expenses Scheme, if the pensioner gets bypass surgery at SMS Hospital or any other Government Hospital, Rs.1,20,000/- or the actual expenses whichever is less, are required to be reimbursed and in the instant case, as per the recommendations of the Medical Board, the petitioner has been granted medical reimbursement of Rs.50,000/- vide cheque dated 28.-12-2002.

I have heard learned counsel for the parties.

From a bare reading of Annx.R/1, it is clear that petitioner's case was referred to the Escorts Heart Institute & Research Centre, New Delhi on his own request and there is a mention of enclosing his request with the order Annx.R/1. The facility of the treatment undergone by the petitioner was well available at the S.M.S. Hospital, Jaipur and, therefore, the petitioner is not entitled for the medical reimbursement over and above Rs.50,000/- which were the expenses to be incurred by him had he undergone the treatment at S.M.S., Jaipur.

On filing the claim, a chqeue for a sum of Rs.50,000/- has already been sent to the petitioner towards medical reimbursement. As such, the petitioner is not entitled for the real and actual expenses for his medical treatment at Escort where his case was referred vide Annx.R/1 on his own

request with the stipulation that his entitlement for medical reimbursement will not be over and above Rs.50,000/-.

In the result, I do not find any merit in the writ petition and it is dismissed accordingly. There shall be no order as to costs.

(H.R. PANWAR), J.

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